THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.34864 of 1997

Dated:28.2.2007

Between
Visakhapatnam Port Employees
Uniion rep., by its General Secretary
.....Petitioner

and

1. The Chairman, Visakhapatnam Port Trust, Visakhapatnam
...Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.34864 of 1997

ORDER:

This writ petition is filed seeking a Mandamus to direct the respondent to absorb the chipping and painting workers belonging to the petitioner-Union into the services of the 1st respondent (Visakhapatnam Port Trust) either on regular or on contract basis with immediate effect.

It is the case of the petitioner-Union that about 135 workers are doing Chipping and Painting work in respect of various mechanical structures and ships pertaining to the Visakhapatnam Port Trust. They have also formed themselves into Union and necessary licences were also granted by respondents for entering into port premises and to do the said

work. In 1982, the said workers have also formed themselves into pool for the object of ensuring that the Steamer Agents and Contractors employ only these persons in discharge of the said works. There was an agreement dated 8.4.1982 between the workers and the contractors. Visakhapatnam Dock Labour Board was formed in the year 1959 and it was established under the provisions of the Indian Dock Labours Act, 1934. The grievance of the petitioner-Union is that though the said workers have been working since a long time, their services were not being absorbed in the respondent-Port Trust. Chipping and Painting workers in Bombay and Calcutta ports have been absorbed into the Dock Labour Boards, whereas such absorption had not taken place at Visakhapatnam so far. Due to non-absorption of the said workers at Visakhapatnam Dock Labour Board or Port into the regular service of the Port Trust, they are

now subjected to unemployment and severe hardship.

While admitting the writ petition, this Court by an interim order 10-08-1995 directed the respondents to consider absorption of the Chipping and Painting Workers belonging to the petitioner-Union in accordance with the relevant Rules.

Learned counsel for the petitioner-Union states that as of now, the cases of the said workers have not been considered. He further asserted that the work of Chipping and Painting is perennial in nature, and in fact, it requires to be abolished under Section 10 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. Whether the works attended to by the members of the petitioner-Union are perennial in nature, whether they require to be abolished or not, cannot be decided in these proceedings under Article 226 of the Constitution of India. Necessarily the Union may have to approach the authority

under the Contract Labour (Regulation and Abolition) Act, 1970.

In view of the above, without expressing any opinion on merits, the petitioner-Union is directed to approach the appropriate authority and work out its remedies as per law.

Writ petition is disposed of accordingly. No costs.

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28-02-2007

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